

**Office of Chief Counsel
Internal Revenue Service
memorandum**

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to: Robert E. Cudlip
Attorney
CC:LM:CTM:SD

from: John P. Moriarty
Chief, Branch 1
(Income Tax and Accounting)

subject: Factual clarification of Memorandum on reporting of advance payments.

This responds to your request for clarification of Chief Counsel Advice previously issued regarding the ability of a taxpayer to use the deferral method of Rev. Proc. 2004-34, 2004-1 C.B. 991, for advance payments received pursuant to a settlement agreement. In a memorandum dated September 17, 2009, we concluded that, provided the taxpayer's method of allocating the payments satisfies the requirements of section 5.02(4) of Rev. Proc. 2004-34, the taxpayer may use the deferral method of Rev. Proc. 2004-34 for advance payments received pursuant to the settlement agreement. The facts upon which that memorandum was based indicated that the taxpayer would recognize the advance payments for financial purposes over a period of two years. Based on additional information brought to our attention, we now understand that for financial statement purposes the taxpayer will report the advance payments over the 15-year term of the settlement agreement. This change in facts does not affect the memorandum's conclusion that the taxpayer may use the deferral method of Rev. Proc. 2004-34. If you have any questions regarding this memorandum or our conclusion, please contact Innessa Glazman at 202-622-5020.

This advice may not be used or cited as precedent.

CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views.